

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In Re:

GLIEE V. GUNSALUS and
BRIAN L. GUNSALUS, SR.,

Debtors,

GLIEE V. GUNSALUS and
BRIAN L. GUNSALUS SR.,
1338 White Road
Phelps, New York 14532

SSN: xxx-xx-0834
SSN: xxx-xx-8715

Plaintiffs,
-against-

COUNTY OF ONTARIO, NEW YORK, and
“JOHN DOE” and “JANE DOE”, said names
being fictitious, it being the intention of Plaintiffs
to name any third-party purchaser of Plaintiffs’
home at 1338 White Road, Phelps, NY 14532
during the property tax foreclosure auction
scheduled by Ontario County at 2914 County
Road 48, Canandaigua, NY 14424 at
7 p.m., May 17, 2017

Defendants

**MOTION FOR A TEMPORARY
RESTRANDING ORDER AND
PRELIMINARY INJUNCTION**

**BK#: 17-20445 - PRW
AP#: 17-02008 - PRW**

Debtors-Plaintiffs GLIEE V. GUNSALUS and BRIAN L. GUNSALUS, SR., pursuant to
11 U.S.C. § 105(a) and the Federal Rules of Bankruptcy Procedure § 7065 and § 9006 hereby
move this Court for an expedited review, a Temporary Restraining Order and a Preliminary
Injunction:

1. To grant expedited review of debtors-plaintiffs' application for a Temporary Restraining Order in order to allow debtors-plaintiffs to be heard on this issue prior to the tax foreclosure auction scheduled for 7:00 p.m. Wednesday, May 17, 2017;

2. To issue a Temporary Restraining Order restraining defendant ONTARIO COUNTY, and its agents, employees, successors, and all other persons in active concert or participation, from auctioning the home of Debtors-Plaintiffs GLIEE V. GUNSALUS and BRIAN L. GUNSALUS, SR., (located at 1338 White Road, Village of Phelps, Ontario County, New York, designated as Ontario County property tax parcel 36.03-1-6.100) at the tax foreclosure auction scheduled for 7:00 p.m. Wednesday, May 17, 2017, at the Ontario County Training Facility, 2914 County Road 48, Canandaigua, NY 14424, or otherwise transferring title or selling their home or interfering with their peaceable possession of the home, pending a determination of their motion for a preliminary injunction;

3. To set a hearing on the motion for preliminary injunction at the earliest possible time; and

4. To issue a preliminary injunction restraining defendant ONTARIO COUNTY, and its agents, employees, successors, and all other persons in active concert or participation, from selling, transferring title or interfering with Debtor-Plaintiffs' peaceable possession of their home, pending a determination of this adversary proceeding; and

The grounds of this motion are that Debtors-Plaintiffs GLIEE V. GUNSALUS and BRIAN L. GUNSALUS, SR. will suffer irreparable harm if their home, which is their principal asset, and their only residence is sold to a third party or they are evicted from their home during the pendency of this adversary proceeding, and they are likely to prevail on the merits of their claims.

The basis for the motion is set out by the affidavit of Amaris Elliott-Engel, Esq., the affidavit of Debtors-Plaintiffs GLIEE V. GUNSALUS and BRIAN L. GUNSALUS, SR., the complaint in the adversary proceeding filed on May 4, 2017, and the attached Memorandum of Law, submitted by their attorneys, Legal Assistance of Western New York, Inc., Mark H. Wattenberg and Amaris Elliott-Engel of counsel.

A proposed temporary restraining order is submitted herewith for consideration by the Court.

DATED: May 15, 2017
 Bath, New York

/s/ Mark H. Wattenberg

Legal Assistance of Western New York, Inc.
Mark H. Wattenberg, Esq., of counsel
Attorneys for Plaintiffs GLIEE V. GUNSALUS and
BRIAN L. GUNSALUS, SR.
16 W. William Street
Bath, New York 14810-1622
Telephone: (607) 776-4126
mwattenberg@lawny.com